

RECORD OF DECISION

Rice Solar Energy Project and Amendment to the California Desert Conservation Area Plan

Cooperating Agency:
United States Department of the Interior
Bureau of Land Management

Environmental Impact Statement No. 20110182
Case File Number: CACA 051022

Rice Solar Energy Project Decision to Grant a Right-of-Way and Amend the California Desert Conservation Area Plan

United States Department of the Interior, Bureau of Land Management
Palm Springs - South Coast Field Office (PSSCFO)
1201 Bird Center Drive, Palm Springs, CA 92262

November 2011



Lead Federal Agency:
U.S. Department of Energy
(Western Area Power Administration, Loan Guarantee Program)

Publication Index Number: BLM/CA/ES-2011-18+1793

NEPA Tracking Number: N/A

TABLE OF CONTENTS

List of Abbreviations	ii
Executive Summary	1
Decision Rationale	1
1. Decisions	2
1.1 Background	2
1.2 Information Developed since the FEIS and Adequacy of NEPA Analysis	7
1.3 Decisions being Made	7
1.4 ROW Requirements (43 U.S.C. 1764; 1765)	8
1.5 Summary of Conclusions	8
2. Mitigation and Monitoring	9
2.1 Required Mitigation	9
2.2 Monitoring and Enforcement	9
2.3 Mitigation Measures Not Adopted	10
2.4 Statement of All Practicable Mitigation Adopted	10
2.5 Coordination with other BLM Monitoring Activities	10
3. Management Considerations	10
3.1 Decision Rationale	10
3.2 Relationship to BLM and other Agency Plans, Programs, and Policies including Consultation	15
3.3 Land Use Plan Conformance and Consistency	19
4. Alternatives	22
4.1 Alternatives Fully Analyzed	22
4.2 Alternatives Not Fully Analyzed	23
4.3 Environmentally Preferred Alternative	24
4.4 Agency Preferred Alternative and Selected Alternative	24
5. Public Involvement	24
5.1 Scoping	24
5.2 Draft EIS Public Comment Period	25
5.3 Protests	25
6. Final Agency Action	26
6.1 Land Use Plan Amendment	26
6.2 Right-of-Way Authorizations	26
Appendices	
1. Location Map	
2. Biological Opinion	
3. Memorandum of Agreement	
4. Director's Protest Resolution Report	
5. Adopted Mitigation Measures	

List of Abbreviations

AFC	application for certification
AO	authorized officer
ARRA	American Recovery and Reinvestment Act
BA	biological assessment
BLM	Bureau of Land Management
BO	biological opinion
BRSA	biological resources survey area
CDCA	California Desert Conservation Area
CDFG	California Department of Fish and Game
CEC	California Energy Commission
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CFR	Code of Federal Regulations
DOE	U.S. Department of Energy
DOI	U.S. Department of the Interior
DTC/C-AMA	Desert Training Center, California-Arizona Maneuver Area
DTCCCL	Desert Training Center Cultural Landscape
EO	Executive Order
EPA	Environmental Protection Agency
EPAct	Energy Policy Act of 2005
ESA	Endangered Species Act
FEIS/PA	final environmental impact statement and California Desert Conservation Area Plan amendment
FLPMA	Federal Land Policy Management Act of 1976
kV	kilovolt
LGP	Loan Guarantee Program
LLC	limited liability company
MOU	memorandum of understanding
MW	megawatt
NAHC	Native American Heritage Commission
NEPA	National Environmental Policy Act

NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
NTP	notice to proceed
MOA	memorandum of agreement
PA	plan amendment
POD	plan of development
ROD	record of decision
ROW	right-of-way
RSE	Rice Solar Energy, LLC
RSEP	Rice Solar Energy Project
RWQCB	Regional Water Quality Control Board
SA/DEIS	staff assessment and draft environmental impact statement
SF	Standard Form
SHPO	California State Historic Preservation Office
SR-62	State Route 62
U.S.	United States
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service

Executive Summary

This document constitutes the Record of Decision (ROD) of the U.S. Department of the Interior (DOI) Bureau of Land Management (BLM) for the Rice Solar Energy Project (RSEP) and associated amendment to the *California Desert Conservation Area Plan* (1980, as amended) (CDCA Plan). This ROD has three decisions, in accordance with Title V of the Federal Land Policy and Management Act (FLPMA) and the implementing regulations found at 43 CFR Part 2800:

1. A right-of-way (ROW) grant to Rice Solar Energy LLC (RSE) covering approximately 150 acres of BLM-administered land for the transmission of energy generated by the Rice Solar Energy Project (RSEP or project). Facilities proposed to be constructed, operated, and ultimately terminated within this ROW are a 161/230 kV electrical transmission line (also called a gen-tie) and an access road.
2. A ROW grant to Western Area Power Administration (Western) covering approximately 4 acres of BLM-administered land for a new substation.
3. In order to approve a ROW grant for the gen-tie line, the BLM also approves a land use plan amendment to the CDCA Plan.

The decisions herein apply only to the BLM-administered public lands within the boundary of the selected alternative. The RSEP also would require an electrical transmission interconnection authorization from Western for transmitting its power, and license certification from the California Energy Commission (CEC).¹ Further, the Department of Energy (DOE) Loan Guarantee Program (LGP) is considering approval of a loan guarantee for the RSEP. The decision to be made by each of these Agencies is independent of all other agencies' decisions. This ROD applies only to the two ROW and one CDCA Plan amendment decisions of the BLM. Other agencies, including Western, are responsible for issuing their own decisions and applicable authorizations for the RSEP.

Decision Rationale

Granting the requested ROWs contributes to the public interest in transmitting renewable energy from the sources of its generation to where it is needed, which helps meet Federal and State renewable energy goals. The stipulations in the ROW grants ensure that approval of the RSEP will protect environmental resources and comply with environmental standards. These decisions are based on comprehensive environmental analysis and full public involvement and reflect resolution of the issues brought to the BLM and Western throughout the process. The BLM, Western, and CEC engaged highly qualified technical experts to analyze the environmental effects of the RSEP. During the scoping process and following the publication of the Staff Assessment and Draft Environmental Impact Statement (SA/DEIS), other agencies, a tribe, organizations and members of the public submitted comments that enhanced these Agencies' consideration of environmental issues relevant to this project. Ten comment letters were received on the SA/DEIS; additional comments were received at the January 5, 2011, public hearing held on the

¹ Through its licensing process, the CEC issued a license for construction and operation of the RSEP on December 15, 2010.

SA/DEIS. The BLM, Western, U.S. Fish and Wildlife Service (USFWS), CEC and other consulted agencies used their expertise and existing technology to address the important issues of environmental resource protection. All practicable mitigation measures contained in the FEIS/PA and the Biological Opinion (BO) that avoid or minimize environmental harm are required as part of the BLM's decision.

1. Decisions

Background

This ROD approves the construction, operation, maintenance, and termination of a 161/230 kV gen-tie, access road, and substation needed for the RSEP on BLM-administered lands in an undeveloped area of the Sonoran Desert in eastern Riverside County, California. It also approves a CDCA Plan amendment made necessary by the approval of the ROW grants for these activities. The project site is located in Sections 24 and 25 of Township 1 South, Range 20 San Bernardino Baseline and Meridian, approximately 32 miles west of Parker, Arizona and approximately 40 miles northwest of Blythe, California in Riverside County, California. The nearest community is Vidal Junction, approximately 15 miles northeast. The solar energy plant would occupy approximately 1,410 acres of a 2,560-acre parcel on private land located adjacent to, and immediately south of, State Route 62 (SR-62). Associated infrastructure would occupy approximately 154 acres of public land administered by BLM. Energy generated by the RSEP would interconnect to Western's Parker-Blythe #2 161-kV transmission line at the substation proposed to be located southeast of the power plant. Figure 1, provided in Appendix 1, *Location Map*, of this ROD shows the location of the project site.

The RSEP (including components to be developed on public land) was analyzed in the FEIS/PA, and the United States Environmental Protection Agency (EPA) issued a Notice of Availability of the FEIS in the June 11, 2011, *Federal Register* (76 FR 34072-02). The RSEP is identified in the FEIS/PA as the Preferred Alternative; it also is referred to as the Selected Alternative in this ROD.

This approval will take the form of two FLPMA ROW grants, each issued in conformance with Title V of FLPMA and implementing regulations found at Title 43 Code of Federal Regulations (CFR) Part 2800. In order to approve the proposed gen-tie, the BLM also approves a land use plan amendment to the CDCA Plan. As noted above, the decisions contained herein apply only to the BLM-administered lands within the boundary of the Selected Alternative.

One ROW grant will be issued to RSE for a term of 30 years with a right of renewal. The RSE ROW grant will allow RSE the right to use, occupy and develop the described public lands to construct, operate, and eventually terminate a 161/230 kV gen-tie and access road for the RSEP on BLM-administered lands in an undeveloped area of the Sonoran Desert in eastern Riverside County, California.

The other ROW grant will be issued to Western for a term of 30 years with a right of renewal. The Western ROW grant will allow Western the right to use, occupy and develop the described

public lands to construct, operate, and eventually terminate a substation. The substation, to be owned and operated by Western, would be located adjacent to Western's existing Parker-Blythe transmission line. The new substation would be approximately 300 feet wide by 400 feet long, causing approximately 4 acres of disturbance.

Construction of the project may be phased; however, the BLM typically requires the initiation of project construction within two years of the issuance of a ROW grant. In addition, initiation of construction will commence upon approval of a final Plan of Development (POD) and issuance of a notice to proceed (NTP) from BLM.

The ROW grants are conditioned on implementation of mitigation measures and monitoring programs identified in the FEIS/PA, the BO issued by the USFWS, the National Historic Preservation Act (NHPA) Section 106 Memorandum of Agreement (MOA), the CEC Conditions of Certification, and the issuance of all other necessary local, state, and Federal approvals, authorizations, and permits.

1.1.1 Applications/Applicants

This ROD contains decisions on two ROW grant applications: one filed by RSE, the other by Western.

1.1.1.1 SolarReserve, LLC

The applicant for the proposed RSEP is SolarReserve, LLC, a Delaware limited liability company with its principal place of business in Santa Monica, California. SolarReserve, LLC has formed a limited liability company, Rice Solar Energy, LLC to construct, own, and operate the RSEP, including for the purposes of developing a concentrating solar power generation facility, filing a ROW grant application with the BLM for the use of public land, filing for electrical transmission interconnection with Western, and for filing an Application for Certification (AFC) with the CEC. SolarReserve has executed a 25-year Power Purchase Agreement with Pacific Gas and Electric to deliver 150 MW of generating capacity and 450,000 megawatt-hours of renewable energy annually to the California market. It holds the exclusive worldwide license to the molten salt, solar power tower technology developed by United Technologies Corporation. Since its formation in late 2007, SolarReserve has assembled a concentrated solar power development portfolio of more than 25 projects (representing a potential output of more than 3,000 megawatts) in the United States and Europe, and has developed and financed more than \$15 billion in renewable and conventional energy projects in more than a dozen countries around the world. The RSE has demonstrated technical and financial capabilities as part of the ROW grant application process.

The RSE filed a ROW grant application (CACA 051022) with the BLM on May 12, 2009, to construct the 161/230 kV gen-tie (for which a 8.2- mile section of the overall 10-mile length would pass through BLM-administered land, with a 150 foot ROW width) and approximately 4.6 miles of access road.

Separate from the BLM ROW grant application process, RSE applied to interconnect the project to the existing transmission system by filing a request in accordance with Western's Open Access Transmission Service Tariff, which provides open access to its transmission system if available capacity exists. The new 230-kV transmission line would extend approximately 10 miles from the solar facility boundary to a new substation to be constructed adjacent to Western's existing 161 kv Parker-Blythe Transmission Line #2. Additionally, on September 14, 2009, RSE applied to the LGP for a loan guarantee in response to the Agency's July 29, 2009, solicitation announcement (DE-FOA-0000140), pursuant to Title XVII of the Energy Policy Act of 2005 (EPAAct). Finally, on October 21, 2009, RSE filed an Application for Certification with the California Energy Commission (09-AFC-10) seeking a license to develop the RSEP. The CEC issued its Commission Decision approving the RSEP on December 15, 2010.

1.1.1.2 Western Area Power Administration

Western filed a ROW grant application (CACA 52956) with the BLM in November 2010 to construct the substation necessary for the RSEP, which would be developed on approximately 4 acres of BLM-administered land. Western is the agency within the U.S. Department of Energy (DOE) that markets Federal electric power to preference customers, as specified by law. These customers include municipalities, cooperatives, irrigation districts, Federal and state agencies, and Native American tribes. Western's service territory covers 15 western states, including California. Western owns and operates more than 17,000 miles of high-voltage transmission lines and attendant energy infrastructure.

In accordance with the National Environmental Policy Act (NEPA), FLPMA, and the California Environmental Quality Act (CEQA), BLM, Western, and the CEC cooperatively prepared a Staff Assessment and Draft Environmental Impact Statement as a joint environmental analysis (SA/DEIS) and FEIS/PA to evaluate environmental impacts of the RSEP, including the requested ROW grants and associated CDCA Plan amendment.

1.1.2 Purpose and Need

The BLM's purpose and need for the RSEP is to respond to RSE's and Western's applications under Title V of FLPMA for a ROW grant to construct, operate, and terminate the components of the RSEP that are proposed on BLM-administered land, i.e., the proposed gen-tie, access road, and substation (SA/DEIS at 2-7-2-8). In accordance with FLPMA (Section 103(c)), public lands are to be managed for multiple use that takes into account the long-term needs of future generations for renewable and non-renewable resources. The Secretary of the Interior is authorized to grant rights-of-way on public lands for systems of generation, transmission, and distribution of electric energy (Section 501(a)(4)). Taking into account the BLM's multiple use mandate, the purpose and need for the proposed action is to respond to a FLPMA right-of-way application submitted by Solar Reserve, LLC to construct, operate, maintain, and decommission components of the RSEP and associated infrastructure on public lands administered by the BLM in compliance with FLPMA, BLM right-of-way regulations, and other applicable Federal laws and policies. This proposed action will assist the BLM in addressing the management objectives in the Energy Policy Act of 2005 (Title II, Section 211) which establish a goal for the Secretary of the Interior to approve 10,000 MWs of electricity from non-hydropower renewable energy

projects located on public lands. This proposed action, if approved, would also further the purpose of Secretarial Order 3285A1 (March 11, 2009) that establishes the development of environmentally responsible renewable energy as a priority for the Department of the Interior.

1.1.3 BLM Authority

1.1.3.1 Federal Land Policy and Management Act of 1976

FLPMA establishes policies and procedures for the management of public lands. In Section 102, Congress declared that it is the policy of the United States that:

“... the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use (43 U.S.C.1701(a)(8)).”

Section 202 of FLPMA and the regulations implementing FLPMA’s land use planning provisions (43 CFR subparts 1601 and 1610) provide a process and direction to guide the development, amendment, and revision of land use plans for the use of the public lands.

Title V of FLPMA (43 United States Code (U.S.C.) 1761-1771) authorizes the BLM, acting on behalf of the Secretary of the Interior, to authorize a ROW grant on, over, under, and through the public lands for systems for generation, transmission, and distribution of electric energy. The BLM's implementation of its statutory direction for ROW authorizations is detailed in 43 CFR Part 2800. The BLM Authorized Officer (AO) administers the ROW authorization and ensures compliance with the terms and conditions of the ROW grant. The AO is any employee of the Department of the Interior to whom the authority to perform the duties described in 43 CFR Part 2800 has been delegated. This authority is derived from the authority of the Secretary of the Interior, and may be revoked at any time. The authority to approve all actions pertaining to the granting and management of Title V ROWs on public lands is delegated to the respective BLM State Directors (BLM Manual 1203, Appendix 1, p. 33). In California, the authority of the BLM State Director to approve actions pertaining to the granting and management of Title V ROWs has been further delegated to the Field Managers.

In respect to the specific ROW grants in this ROD, this authority has been delegated to the Field Manager of the Palm Springs – South Coast Field Office, who will be responsible for managing the ROW grant for the RSEP.

1.1.3.2 National Environmental Policy Act

Section 102(c) of NEPA (42 U.S.C. 4321 et seq.) and the Council on Environmental Quality (CEQ) and DOI implementing regulations (40 CFR Parts 1500–1508 and 43 CFR Part 46) provide for the integration of NEPA directives into agency planning to ensure appropriate consideration of NEPA’s policies and to eliminate delay.

When taking actions such as approving CDCA Plan amendments and ROW grants, the BLM complies with the applicable requirements of NEPA, the CEQ's NEPA regulations, and the agency's own policies for the implementation of NEPA. Compliance with the NEPA process is intended to assist Federal officials in making decisions about a project that are based on an understanding of the environmental consequences of the decision, and identifying actions that protect, restore, and enhance the environment. The SA/DEIS, FEIS/PA, and this ROD document the BLM's compliance with the requirements of NEPA for the RSEP.

1.1.3.3 California Desert Conservation Area Plan

Consistent with FLPMA, the BLM manages public lands in the California Desert District pursuant to the CDCA Plan and its amendments. The CDCA Plan, while recognizing the potential compatibility of power transmission and distribution facilities on public lands, requires that all proposed transmission lines (including gen-ties) located outside of existing designated utility corridors equal to or greater than 161 kV undergo a CDCA Plan amendment process. Because the CDCA Plan has not previously designated the RSEP transmission line corridor for power transmission, it must be further amended to allow power transmission facilities in that area. The planning criteria for considering an amendment to the CDCA Plan are discussed in CDCA Plan Chapter 4.10, Land Use and Corridor Analysis.

1.1.3.4 Other Guidance, Laws and Regulations

In conjunction with the FLPMA, relevant BLM directives and policies also include:

- Energy Policy Act (119 Statutes 594, 600), Section 211, which states “It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on public lands with a generation capacity of at least 10,000 megawatts of electricity.”
- Instruction Memorandum No. 2011-003, *Solar Energy Development Policy* (October 7, 2010), which provides updated guidance on the processing of right-of-way applications and the administration of right-of-way authorizations for solar energy projects on public lands administered by the BLM. Pursuant to this policy, applications for commercial solar energy facilities are processed as ROW authorizations under Title V of FLPMA and its implementing regulations (43 CFR Part 2800); they also must comply with the BLM's environmental and planning requirements. Among other things, BLM's Solar Energy Development Policy states, “Secretarial Order 3285A1, signed on March 11, 2009, and amended on February 22, 2010, established the development of renewable energy as a priority of the Department of the Interior.... This policy IM helps ensure environmentally-responsible development of solar projects on public lands and provides for effective processing of the right-of-way applications.”
- Executive Order 13212 (May 18, 2001), which mandates that agencies act expediently and in a manner consistent with applicable laws to increase the “production and transmission of energy in a safe and environmentally sound manner.”

- Secretarial Order 3285A1, *Renewable Energy Development by the DOI* (February 22, 2010), which establishes the development of renewable energy as a priority for the DOI and creates a Departmental Task Force on Energy and Climate Change. It also announced a policy goal of identifying and prioritizing specific locations (study areas) best suited for large-scale production of solar energy.
- Instruction Memorandum 2011-59, *National Environmental Policy Act Compliance for Utility-Scale Renewable Energy Right-of-Way Authorizations* (February 7, 2011), which reiterates and clarifies existing BLM NEPA policy to assist offices that are analyzing externally-generated, utility-scale renewable energy ROW grant applications. It includes examples and guidance applicable to such applications that supplement information in the BLM's NEPA Handbook (H-1790-1) that reflect that utility-scale renewable energy projects are distinct from many other types of land and realty actions due to their size and potential for significant resource conflicts, as well as the priority that has been placed on them by the DOI.

1.2 Information Developed since the FEIS and Adequacy of NEPA Analysis

Since the preparation and publication of the FEIS/PA, there have been no substantial changes to the proposed action that are relevant to environmental concerns or significant new circumstances or information relevant to environmental concerns bearing on the proposed action or its impacts. Therefore, no additional NEPA analysis is required.

1.3 Decisions being Made

1.3.1 Right-of-way

Under Federal law, the BLM is responsible for processing ROW grant applications to determine whether and to what extent to authorize proposed projects, such as power transmission projects, on land it manages (43 U.S.C. 1764(a)). Because the RSEP is a privately-initiated venture with some facilities to be sited on lands administered by the BLM, applications were filed for ROW grants from the BLM for the gen-tie, access road, and substation related to the RSEP pursuant to Federal law and regulations. The BLM has limited the grants to those lands necessary for constructing, operating, and terminating the authorized facilities on public lands. In addition, the grants include conditions based on the FEIS/PA, the BO, the MOA, and applicable Federal rules and regulations to protect public health and safety, and to ensure that the proposed action will not result in unnecessary or undue degradation of the public lands. On approval of their respective ROW grants, RSE and Western will be authorized to construct and operate those portions of the RSEP on the BLM-administered lands shown in Figure 1 in Appendix 1 if it meets the requirements specified in the ROD. The ROD requires RSE and Western to secure all necessary local, State and Federal permits, authorizations and approvals for their respective work before the BLM will issue an NTP for portions of the proposed action under its jurisdiction. On receipt of the NTP, and by remaining consistent with it, RSE and Western will be able to construct and operate portions of the project proposed on public land.

1.3.2 Land Use Plan Amendment

Under the CDCA Plan, the BLM-administered portions of RSEP site are classified as Multiple-Use Class (MUC) M (Moderate Use). The CDCA Plan provides guidance concerning the management and use of BLM lands in the California Desert while balancing other public needs and protecting resources. The CDCA Plan contemplates power transmission facility uses outside of existing corridors such as the one analyzed by the proposed CDCA Plan amendment for the RSEP (CDCA Plan, p. 95). The CDCA Plan provides that such development may be allowed in Class M areas after NEPA requirements are met (CDCA Plan, p. 15). Requiring a project-specific EIS allows appropriate environmental safeguards to be applied to individual proposals. According to the terms of the CDCA Plan for MUC M lands, the BLM must amend the CDCA Plan to designate a power transmission corridor before new infrastructure can be constructed there (“New... electric... transmission facilities... may be allowed only within designated corridors” (CDCA Plan, p. 15)).

Based on the MUC Guidelines provided in Table 1 in the CDCA Plan, new energy transmission facilities are allowed in the MUC M designation contingent on NEPA requirements being met for the proposed use. The FEIS/PA and ROD for the RSEP meet NEPA requirements for consideration of the proposed action and for consideration of the proposed energy transmission corridor as suitable for development. The CDCA Plan specifically is amended by this ROD to identify the energy transmission corridor identified as part of the RSEP as suitable for the proposed use.

1.4 ROW Requirements (43 U.S.C. 1764; 1765)

The BLM uses Standard Form ROW Lease/Grant SF 2800-14 as the instrument to authorize the ROW grants for the project; it includes the Plan of Development (POD) and all other terms, conditions, stipulations, and measures required as part of the grant authorizations. Consistent with BLM policy, each of the RSEP ROW grants will include a diligent development and performance bonding requirement for installation of facilities consistent with the approved POD. Construction of the initial phase of development must commence within 12 months after issuance of the NTP but no later than 24 months after the effective date of the issuance of the respective ROW grant. The holder shall complete construction within the timeframes approved in the POD, but no later than 24 months after start of construction or as otherwise approved by the BLM for phased construction.

1.5 Summary

The decisions set forth in this section are consistent with the land use plan and with FLPMA and BLM’s regulatory authority and are warranted pursuant to those authorities. The RSEP is expected to provide climate, employment, and energy security benefits to California and the Nation. It will help meet the increasing demand for clean, renewable electrical energy in the U.S., help reduce reliance on fossil fuels and associated greenhouse gas emissions, and incorporate energy storage that provides operating stability for the electricity grid and a cost-effective way to meet California’s peak electricity demand profile. The RSEP will contribute

150 MW of non-hydropower renewable energy toward meeting Federal and State renewable energy policy goals, and supply approximately 450,000 megawatt hours annually of zero-emission electricity within California, which is enough to power as many as 68,000 homes during peak electricity periods. Construction, operation, and maintenance of the gen-tie and substation on public lands will facilitate the environmentally responsible development of solar energy projects on public and private lands in the vicinity of the RSEP. It is expected to employ up to 450 workers during construction, up to 50 permanent employees during its operation, and to generate an estimated 5,300 direct and induced jobs for the region. Additionally, the RSEP has an annual operating budget estimated at more than \$5 million, much of which is expected to be spent locally, and, over the first 10 years of operation, is forecasted to generate \$48 million in tax revenues for the State. Other important benefits to the Nation's environment and economy include improving local air quality and public health, developing local energy sources, and diversifying the Nation's energy supply.

2. Mitigation and Monitoring

2.1 Required Mitigation

The RSEP includes the following measures, terms, and conditions which are incorporated into this Record of Decision as requirements of the ROW authorization:

- Avoidance, Minimization, and Mitigation Measures provided in the Staff Assessment, Draft Environmental Impact Assessment prepared for the RSEP, as amended by the responses to comments provided in the FEIS/PA. See Appendix 5, *Adopted Mitigation Measures*;
- Terms and Conditions in the United States Fish and Wildlife Service Biological Opinion provided in Appendix 2, *Biological Opinion*, of this ROD, as such may be amended over time; and
- Terms and Conditions in the Memorandum of Agreement provided in Appendix 3, *Memorandum of Agreement*.

The complete language of these measures, terms, and conditions is provided in the Plan of Development as stipulated in the ROW grant for compliance purposes.

2.2 Monitoring and Enforcement

The BLM decision imposes mitigation measures set forth in the approved Environmental Construction and Compliance Monitoring Program. Compliance with this program will be required before construction as a condition of the ROW grant (40 CFR 1505.2(c)).

The grant holder is responsible for complying with all adopted mitigation measures in the ROW grant for the RSEP. The complete language of all the measures is provided in the POD. The BLM also has incorporated this mitigation into the ROW grant as terms and conditions. Failure on the part of the grant holder to adhere to these terms and conditions could result in various

administrative actions up to and including a termination of the ROW grant and requirements to remove the facility and rehabilitate disturbances.

2.3 Mitigation Measures Not Adopted

Consistent with 40 CFR 1505.2(c), all practicable means to avoid or minimize environmental harm from the RSEP have been adopted.

2.4 Statement of All Practicable Mitigation Adopted

As required in the BLM NEPA Handbook H-1790-1 and 40 CFR 1505.2(c), all practicable mitigation measures that are necessary to fully mitigate the potential effects of the project according to Federal laws, rules, policies, and regulations have been adopted by this ROD for the RSEP. The complete language of those measures is provided in the ROD, Appendix 5, Adopted Mitigation Measures.

2.5 Coordination with other BLM Monitoring Activities

As recommended in the BLM NEPA Handbook H-1790-1, a written monitoring plan that incorporates monitoring schedules, approaches, and standards has been prepared for the RSEP. The BLM, Western, and the CEC have detailed 186 different mitigation measures or Conditions of Certification to address the effects of the RSEP on biological resources, cultural resources, groundwater, and other resources. The BLM-wide and program specific monitoring policies and strategies have been considered in developing the plan as it relates to the construction, operation, maintenance and decommissioning activities that would occur on BLM-administered Federal land.

3. Management Considerations

3.1 Decision Rationale

This decision approves two ROW grants and associated CDCA Plan amendment for the RSEP in accordance with the Selected Alternative analyzed in the FEIS/PA as the proposed RSEP. The BLM's decision to authorize these activities and to amend the CDCA Plan is based on the rationale described throughout the ROD and as detailed in the following sections.

3.1.1 Respond to Purpose and Need

Approval of the ROW grants for the Selected Alternative responds to the BLM's purpose and need by responding to the application under Title V of FLPMA for a ROW grant to construct, operate, and terminate a gen-tie line, access road, and substation for a solar energy project on public lands in compliance with FLPMA, BLM ROW regulations, and other applicable Federal laws. The BLM's decision to amend the CDCA Plan also is necessary for meeting the Agency's purpose and need for the action. The CDCA Plan, while recognizing the potential compatibility of energy transmission facilities on public lands, requires all sites associated with power transmission not already identified in that plan to be considered through the plan amendment

process. Therefore, the BLM is also approving an amendment to the CDCA Plan as required to designate a new corridor for a 161/230-kV transmission line.

Under the EPO Act, Federal agencies are directed to encourage the development of renewable energy. By entering into an MOU with the DOE, CEC, and other agencies, BLM has committed to work with state and Federal agencies to achieve California's Renewable Portfolio Standards energy goals and greenhouse gas emission reduction standards in a manner that is both timely and in compliance with Federal and state environmental laws. The purpose of the MOU is to assist with the implementation of applicable state and Federal laws, regulations, and policies.

The construction, operation, maintenance, and termination activities associated with the Selected Alternative, either singularly or with mitigation, are in conformance with the following land use plans and policies:

- BLM policy and guidance for issuing ROW grants, including BLM Manual 2801.11;
- California Desert Conservation Area Plan of 1980, as amended; and
- Northern & Eastern Colorado Desert Coordinated Management Plan, 2002.

3.1.2 Achieve Goals and Objectives

Selection of the Selected Alternative would accomplish goals and objectives, including Federal and state objectives for renewable energy development. The proposed action complies with CDCA Plan objectives for the Multiple Use Class M – Moderate, land use designation. Additionally, the BLM consulted extensively with several parties to identify project modifications that would minimize impacts to natural and cultural resources. The Selected Alternative provides the best balance between maximizing renewable energy capacity and transmission while reducing adverse impacts as compared to other action alternatives.

3.1.3 Required Actions

Pursuant to the requirements of each of the Federal statutes discussed below, specific actions must be completed prior to the issuance of a ROD and project approval. The statutes are listed here and their requirements are discussed in Section 3.2.

- Endangered Species Act of 1973
- The Bald and Golden Eagle Protection Act
- The National Historic Preservation Act
- Clean Air Act, as Amended in 1990
- Clean Water Act

3.1.4 Incorporate CDCA Plan Management Considerations

The CDCA Plan amendment is warranted. The record indicates that the specified components of the Selected Alternative can be constructed on BLM-administered lands, and that project construction will result in fewer significant, unmitigable impacts to biological resources, and produce a more economically feasible project, than would occur with the other build alternatives analyzed in the FEIS/PA. The approval of the site location based upon NEPA satisfies the requirements of the CDCA Plan.

3.1.4.1 Identify Site Location per CDCA Plan

The BLM has found that the up to 154 acres of BLM-administered land identified as part of the Selected Alternative, as described in the FEIS/PA for the RSEP, is suitable and can be designated for solar energy transmission and other infrastructure based on compliance with the requirements of NEPA. The CDCA Plan amendment applies to the public lands within the proposed transmission corridor for the Selected Alternative as shown in Appendix 1. The legal description of the affected property is described in the ROWs granted by the BLM for this project.

3.1.5 Statement of No Unnecessary or Undue Degradation

Congress declared that the public lands be managed for multiple use and sustained yield, in a manner to protect certain land values, to provide food and habitat for species, and to provide for outdoor recreation and human occupancy and use (43 U.S.C. 1701 (a)(7), (8)). Multiple use management means that public land resources are to be managed to best meet the present and future needs of the American public, balanced to take into consideration the long term needs of future generations without permanent impairment of the lands (43 U.S.C. 1702(c)). The BLM manages public land through land use planning, acquisition, and disposition, and through regulation of use, occupancy, and development of the public lands (Subchapters II and III, respectively, 43 U.S.C. 1711 to 1722, and 1731 to 1748).

The FLPMA specifically provides that in managing the use, occupancy, and development of the public lands, the Secretary shall take any action necessary to prevent unnecessary or undue degradation of the lands (43 U.S.C. 1732(b)). The process for siting and evaluating the RSEP has included extensive efforts on the part of BLM, Western, CEC, other agencies, RSE, and public commenters to identify a project that accomplishes the agencies' respective purpose and need for the project, while preventing any unnecessary or undue degradation of the lands. These efforts have included:

- Siting of the proposed facilities in a location in which solar energy transmission and other infrastructure can be authorized (following NEPA review), and which has not specifically been designated for the protection of any resources.
- Evaluation of project location alternatives that could meet the purpose and need for the project and might have resulted in the avoidance or minimization of impacts.

- The development of mitigation measures, including compensation requirements for the displacement of desert tortoise habitat, to further minimize impacts.

In addition, BLM ROW regulations (43 CFR 2805.11(a)) require that BLM limit the grant to those lands which BLM determines:

- (1) Are occupied with authorized facilities;
- (2) Are necessary for constructing, operating, maintaining, and terminating the authorized facilities;
- (3) Are necessary to protect public health and safety;
- (4) Will not unnecessarily damage the environment; and
- (5) Will not result in unnecessary or undue degradation.

The lands described in Section 3.1.4.1 are the minimum necessary to accommodate the components of the RSEP proposed for development, operation, and termination on BLM-administered land. All areas under the Selected Alternative that were not necessary for the construction, operation and maintenance of these facilities were removed from the project description. Public health and safety will not be compromised by the project as construction work areas will be posted and public access to those areas controlled to prevent possible injury to the public. Site security will be maintained during operations by fencing and security personnel.

The Selected Alternative will achieve all of the beneficial impacts summarized in Section 1.6. Based on the comparative analysis of the ability of each alternative to meet the purpose and need, and the environmental impacts that would be associated with each alternative as discussed in the FEIS/PA and as summarized above, the Selected Alternative was identified by BLM as the alternative that does not unnecessarily damage the environment or create unnecessary or undue degradation of the lands.

As noted above, Congress specifically recognized multiple use and sustained yield management for the CDCA, through the CDCA Plan, providing for present and future use and enjoyment of the public lands. The CDCA Plan identifies allowable uses of the public lands in the CDCA. In particular, it authorizes the location of solar energy transmission facilities in MUC M and other land classifications upon NEPA review. The BLM has conducted that review, and as indicated in the FEIS/PA and portions of this ROD, has adjusted the RSEP to meet public land management needs and concerns. In particular, the BLM has determined that the Selected Alternative meets national renewable energy policy goals and objectives and falls within the guidelines of the CDCA Plan.

In addition, the project meets the requirements of applicable ROW regulations inasmuch as it includes terms, conditions, and stipulations that are in the public interest; prevents surface disturbance unless and until a NTP is secured; is issued for a period of 30 years, subject to renewal and periodic review; and contains diligence and bonding requirements to further protect

public land resources. This approval provides that public land will be occupied only with authorized facilities and only to the extent necessary to construct, operate, maintain, and terminate the project. The BLM terms and conditions in the ROW Grant provide for public health and safety and protect the environment and public lands at issue. These conditions of approval include compliance with this ROD, the FEIS/PA, the BO, NHPA Section 106 requirements, and the MOA. All of these Federal requirements provide the basis for BLM's determination that the RSEP will not unnecessarily and unduly degrade these public lands.

3.1.6 Statement of Technical and Financial Capability

The FLPMA and its implementing regulations provide the BLM the authority to require a project application to include information on an applicant's technical capability to construct, operate, and maintain the solar energy facilities applied for (43 CFR 2804.12(a)(5)). This technical capability can be demonstrated by international or domestic experience with solar energy projects or other types of electric energy-related projects on either Federal or non-Federal lands. Each applicant has provided information on the availability of sufficient capitalization to carry out development, including the preliminary study phase of the project, as well as site testing and monitoring activities.

Rice Solar Energy, LLC's statement of technical and financial capability is provided in the POD and the application for a ROW. The RSE is a wholly owned subsidiary of SolarReserve, LLC, a Delaware limited liability company with its principal place of business in Santa Monica, California. United Technologies Corporation's Pratt & Whitney Rocketyne division developed SolarReserve's technology, and United Technologies has granted SolarReserve the proprietary technology and an exclusive worldwide license to develop power plants using this technology. SolarReserve was formed in 2007 by power production industry experts whose track record includes more than 5,000 MW (\$10 billion) of clean energy projects financed and operated around the globe. SolarReserve is backed by a consortium of major financial partners led by the private equity firm US Renewables Group (USRG), a \$575 million private equity firm exclusively focused on renewable power and clean fuel projects. The company presently has more than 20 projects in various stages of development in the U.S. and abroad, representing more than 3,000 MW of electricity. Based upon the information provided by the applicant in its POD, the BLM has determined that it has the technical and financial capability required to construct, operate, and maintain the proposed facility and related infrastructure.

The BLM, consistent with its authority, has elected not to require Western to provide information about its technical or financial capability to construct, operate, and maintain the components of the project for which it will be responsible (43 CFR 2804.12(a)(5)). Western is one of four power marketing administrations within the U.S. Department of Energy. It markets and delivers reliable, renewable, cost-based renewable energy and related services within a 15-state region of the western and central United States. No further information about this agency's capability is required.

3.2 Relationship to BLM and other Agency Plans, Programs, and Policies including Consultation

3.2.1 United States Fish and Wildlife Service - Endangered Species Act Section 7

The BLM's consultation and coordination with the USFWS as required for the RSEP complies with Endangered Species Act, as amended (ESA) (16 U.S.C. 1531 et seq.) Section 7 regarding potential take of the desert tortoise.

The USFWS has jurisdiction over threatened and endangered species listed under the ESA. Formal consultation with the USFWS under Section 7 of the ESA is required for any Federal action that may adversely affect a federally-listed species. Because the desert tortoise (*Gopherus agassizii*) is a federally-listed threatened species that occurs in the project area, formal consultation with the USFWS was required for the RSEP.

This consultation was initiated by Western for the RSEP through the preparation and submittal of a BA, which described the proposed action to the USFWS. The USFWS accepted the BA on January 18, 2011. Following review of the BA, the USFWS issued a BO, which is attached as Appendix 2, specifying the mitigation measures that must be implemented for any protected species. The BO concluded that the RSEP is likely to adversely affect desert tortoise but not jeopardize the species or result in adverse modification of critical habitat for that species. Measures included in the BO would reduce any anticipated adverse impacts. These measures are mandatory and have been included as conditions of approval of this ROD by the BLM.

Based on the conditions in the BO and the consultation with the USFWS, many biological resources in the area are avoided by the Selected Alternative or the impacts are substantially mitigated.

3.2.2 National Historic Preservation Act Section 106 Memorandum of Agreement

Section 106 of the National Historic Preservation Act (NHPA) (16 USC 470; 36 CFR 800.14) requires Federal agencies to take into account the effects that their approvals and federally funded activities and programs have on significant historic properties. "Significant historic properties" are those properties that are included in, or eligible for, the National Register of Historic Places (NRHP).

Consistent with its responsibilities under Section 106, the BLM consults with Indian tribes to identify, evaluate, and resolve adverse effects on cultural resources affected by BLM undertakings. The BLM initiated consultation for the RSEP under Section 106 of the NHPA, and the requisite process has been completed. An MOA for this project was prepared by the BLM in consultation with the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, CEC, interested Native American Tribes and tribal governments, and other interested parties pursuant to 36 CFR 800.14(b). The executed (final) MOA, provided in Appendix 3, will govern the continued identification and evaluation of historic properties and historical resources (eligible for the California Register of Historic Places), as well as the

resolution of any effects that may result from the RSEP. Historic properties and historical resources are significant prehistoric and historic cultural resources as determined by the BLM.

3.2.3 Tribal consultation

In addition to the consultation leading to the MOA described above, the BLM conducted government-to-government consultation with a number of tribal governments. The consultation and discussions revealed concerns about the importance and sensitivity of cultural resources on and near the RSEP site, concerns about cumulative effects to cultural resources, and that significance is attached to the broader cultural landscape. As a result of the Native American consultation process, many important cultural resources were identified in the project area, but were not affected due to the elimination of the transmission line fiber optic portion of the project.

Based on the consultation with tribal governments and the MOA, cultural resources in the area will be avoided by the Selected Alternative.

3.2.4 Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act (16 U.S.C. 668a-d) provides for the protection of bald and golden eagles by prohibiting, except under certain specified conditions, disturbance or harm of these species. To comply with the Act and in accordance with BLM's Instruction Memorandum (IM) 2010-156, the BLM will require RSE, in coordination with Western, to develop an Avian Protection Plan (APP). The BLM will not issue an NTP until it receives a letter from FWS indicating concurrence with the APP for the project. The APP for the project will identify steps to be taken to ensure that eagle impacts are mitigated to the extent possible including, but not limited to, ongoing surveys, impact monitoring, and facility design.

3.2.5 Clean Air Act, as Amended in 1990

Title 40 CFR Section 51 (Subpart W - Determining Conformity of General Federal Actions to State or Federal Implementation Plans), Title 40 CFR Section 93 (Subpart B - Determining Conformity of General Federal Actions to State or Federal Implementation Plans) and 42 U.S.C. Section 7606(c) require Federal actions to comply with the requirements of the 1990 amendments to the Clean Air Act (CAA) (42 U.S.C 7401 Ch. 85). The RSEP is expected to meet the requirements of the CAA based on compliance with the mitigation measures identified in the FEIS/PA and the terms, conditions, and stipulations related to emission controls and reductions during project construction, maintenance, operation, and termination.

3.2.6 United States Department of Energy

The DOE is responsible for implementing key parts of the EPOA of 2005, including the Federal LEP for eligible energy projects that employ innovative technologies. Title XVII of the EPOA authorizes the Secretary of Energy to make loan guarantees for a variety of types of energy related projects. The two purposes of the loan guarantee program are to encourage commercial use in the United States of new or significantly improved energy-related technologies and to achieve substantial environmental benefits.

The DOE was the Federal Lead Agency (BLM was a cooperating Agency) on the FEIS/PA.

3.2.7 United States Army Corps of Engineers

The U.S. Army Corps of Engineers (USACE) has jurisdiction to protect water quality and wetland resources under Section 404 of the Clean Water Act. Under this authority, USACE reviews proposed projects to determine whether they may impact such resources, and/or be subject to Section 404's permit requirement. Throughout the environmental review process for the RSEP, the BLM, Western, CEC, and RSE provided information to the USACE to assist it in making a determination regarding its jurisdiction and whether a permit would be required. The USACE rendered a final opinion on July 27, 2010, concluding that the RSEP does not affect waters of the U.S., and so does not require a Clean Water Act Section 404 permit.

3.2.8 United States Environmental Protection Agency

Copies of the SA/DEIS and FEIS/PA were sent to the U.S. EPA, Region 9. The EPA submitted comments on the SA/DEIS to Western. Responses to the EPA's comment letter may be found in the FEIS/PA.

3.2.9 United States Department of Defense

Construction and operation of the RSEP would affect three existing low-level military training routes (MTRs). Because of these MTRs, the use of airspace above the project site from the surface to varying altitudes above 10,000 AGL is limited. Information developed during consultation with the Department of Defense (DOD) Southwest Renewable Energy Work Group indicates that the proposed solar power tower would encroach into airspace used by the military to conduct low-level and night training exercises and, unless mitigation measures were imposed on project implementation, could affect the safety of military testing and operations conducted along these MTRs. Accordingly, mitigation measures for the RSEP require solar tower lighting consistent with DOD requirements.

3.2.10 National Park Service

The National Park Service manages the Joshua Tree National Park, which is located south of SR-62 roughly 25 miles to the west of the project site. Because of the proximity of Joshua Tree National Park, the Park Service was invited to participate in scoping meetings and public workshops, and was provided the opportunity to review and comment on the environmental review for the project. The NPS did not provide comments on either the SA/DEIS or the FEIS/PA.

3.2.11 Consultation with State, Regional, and Local Agencies

3.2.11.1 Governor's Consistency Review

The proposed CDCA Plan amendment for the RSEP was reviewed by the Governor's Office of Planning and Research following the issuance of the FEIS/PA, and was found to be consistent with state and local plans.

3.2.11.2 California Department of Fish and Game

The California Department of Fish and Game (CDFG) has the authority to protect water resources of the State through regulation of modifications to streambeds, under Fish and Game Code Section 1602. The BLM, Western, the CEC and RSE provided information to CDFG to assist the Agency in its determination of potential impacts to streambeds, and identification of permit and mitigation requirements. The RSE filed a Streambed Alteration Agreement with CDFG on April 30, 2010. The requirements of the Streambed Alteration Agreement were included as a recommended mitigation measure/Condition of Certification and are required by BLM pursuant to this ROD.

The CDFG also has the authority to regulate potential impacts to species that are protected under the California Endangered Species Act (CESA). On May 5, 2010, RSE filed an application for authorization for incidental take of the desert tortoise under Section 2081(b) of the CESA. The requirements of the Incidental Take Permit will be included as a recommended Mitigation Measure/Condition of Certification.

3.2.11.3 State Water Resources Control Board/Regional Water Quality Control Board

The Colorado River Basin Regional Water Quality Control Board (RWQCB) has the authority to protect both surface water and groundwater resources at the proposed project location. Throughout the environmental review process for the RSEP, the BLM, Western, CEC, and RSE invited the RWQCB to participate in public scoping and workshops, and provided information to assist the Agency in evaluating the potential impacts and permitting requirements of the proposed project. The RWQCB provided comments that were evaluated and incorporated into the SA/DEIS. Also, based on the Agency's determination that the RSEP would impact waters of the State, it specified conditions to satisfy waste discharge requirements that the BLM, Western, and the CEC included mitigation measures/Conditions of Certification.

3.2.11.4 Mojave Desert Air Pollution Management District

The Mojave Desert Air Pollution Management District (MDAPMD) has authority to implement within its jurisdiction the requirements of the New Source Review (NSR) permitting program that was adopted as part of the 1977 Clean Air Act Amendments. The NSR is a preconstruction permitting program that ensures that air quality is not significantly degraded from the addition of new and modified facilities and assures people that large new or modified industrial sources of air pollutants will be as clean as possible. Pursuant to this authority, the MDAPMD reviewed the proposed RSEP, evaluated worst-case or maximum air quality impacts, and established control technology requirements and related air quality permit conditions. The Agency issued a

Preliminary Determination of Compliance for the RSEP on June 10, 2010, and a Final Determination of Compliance on July 30, 2011.

3.3 Land Use Plan Conformance and Consistency

3.3.1 Conformance with the CDCA Plan

The RSEP site is located within the CDCA, a 25-million-acre area that contains over 12 million acres of BLM-administered lands in the California Desert, including the Mojave Desert, the Sonoran Desert, and a small part of the Great Basin Desert. The Resource Management Plan (RMP) for the project site is the CDCA Plan of 1980, as amended. Goals and actions for each resource managed by the BLM are established in the 12 Elements in the CDCA Plan. Each Plan Element provides a Desert-wide perspective of the planning decisions for one major resource or issue of public concern, as well as more specific interpretation of multiple-use class guidelines for a given resource and its associated activities.

The proposed gen-tie corridor and other project components proposed on Federal land are classified in the CDCA Plan as Multiple-Use Class (MUC) M (Moderate Use). Within MUC M, electrical transmission facilities “may be allowed after NEPA requirements are met.” Approval of the Selected Alternative amends the CDCA Plan following the process anticipated in the CDCA Plan to identify the proposed utility corridor site as suitable for energy transmission. The CDCA Plan amendment would apply only to the BLM-administered land being evaluated for the RSEP. Accordingly, the CDCA Plan amendment and the overall amendment process are consistent with the CDCA Plan.

3.3.2 Need for a CDCA Plan Amendment

To accommodate the RSEP, the CDCA Plan is being amended because “[s]ites associated with power generation or transmission not identified in the Plan will be considered through the Plan Amendment process.” As specified in CDCA Plan Chapter 7, *Plan Amendment Process*, there are three categories of Plan Amendments. Approval of the RSEP would require a Category 3 amendment to the CDCA Plan to accommodate a request for a specific use or activity that will require analysis beyond the plan amendment decision.

The CDCA Plan Amendment to designate (identify) the site of the Selected Alternative for energy transmission is provided in the ROD through the following Land Use Plan amendment analysis.

3.3.3 Required CDCA Plan Determinations

As discussed in CDCA Plan Chapter 7, the BLM must make certain required determinations in amendments to the CDCA Plan. The required determinations and how they were made for the CDCA Plan amendment for the RSEP are provided below.

Required Determination: Determine if the request has been properly submitted and if any law or regulation prohibits granting the requested amendment.

The RSE's and Western's requests for their respective ROW grants were properly submitted; the FEIS/PA was the mechanism for evaluating and disclosing environmental impacts associated with those applications. No law or regulation prohibits granting the CDCA Plan Amendment.

Required Determination: Determine if alternative locations within the CDCA are available which would meet RSE's needs without requiring a change in the Plan's classification, or an amendment to any Plan element.

The CDCA Plan does not currently identify a site in the vicinity of the project for energy transmission facilities. Therefore, there is no other location within the CDCA that could serve as an alternative location without requiring an amendment similar to the one required for the Selected Alternative. The Selected Alternative does not require a change in the Multiple-Use Class classification for any area within the CDCA.

Required Determination: Determine the environmental effects of granting and/or implementing the applicant's request.

The FEIS/PA evaluated the environmental effects of approving the CDCA Plan amendment and the ROW grant applications for the RSEP.

Required Determination: Consider the economic and social impacts of granting and/or implementing the applicant's request.

The FEIS/PA evaluated the economic and social impacts of the CDCA Plan amendment and the ROW grants.

Required Determination: Provide opportunities for and consideration of public comment on the proposed amendment, including input from the public and from Federal, state, and local government agencies.

The BLM published a Notice of Intent (NOI) to amend the CDCA Plan in the Federal Register on March 29, 2010 (75 FR 15427-01). Ten comment letters were received within the 30-day scoping period, which ended on April 28, 2010.

Required Determination: Evaluate the effect of the proposed amendment on BLM management's desert-wide obligation to achieve and maintain a balance between resource use and resource protection.

The balance between resource use and resource protection is evaluated in the FEIS/PA. The FLPMA Title VI, as addressed in the CDCA Plan, provides for the immediate and future protection and administration of the public lands in the California Desert within the framework of a program of multiple use and sustained yield, and maintenance of environmental quality. Multiple use includes the use of renewable energy resources, and, through Title V of FLPMA, the BLM is authorized to grant ROWs for the transmission of electric energy. The acceptability of use of public lands within the CDCA for this purpose is recognized through the CDCA Plan's approval of solar generating facilities within Multiple-Use Class M. The FEIS/PA identifies

resources that may be adversely impacted by approval of the RSEP, evaluates alternative actions that may accomplish the agency's purpose and need for the project with a lesser degree of resource impacts, and identifies mitigation measures that, when implemented, would reduce the extent and magnitude of the impacts and provide a greater degree of resource protection.

3.3.4 CDCA Plan Decision Criteria

The CDCA Plan defines specific Decision Criteria to be used by the BLM in evaluating applications in the Energy Production and Utility Corridors Element of Chapter 3. The consideration of these Decision Criteria for the RSEP is described below.

Decision Criterion: Minimize the number of separate rights-of-way by utilizing existing rights-of-way as a basis for planning corridors.

The RSEP helps minimize the number of separate ROWs by proposing a single new transmission corridor that will facilitate renewable energy development on suitable private lands in the vicinity of the project rather than by causing the proliferation of multiple separate ROWs on a project-by-project basis. Electrical transmission associated with planned and future projects will occur within the new corridor.

Decision Criterion: Encourage joint-use of corridors for transmission lines, canals, pipelines, and cables.

The RSEP transmission facilities would not be within designated corridors. The establishment of a new utility corridor in this area will encourage and maximize joint-use of the corridor on a going-forward basis.

Decision Criterion: Provide alternative corridors to be considered during processing of applications.

An alternative corridor route (the SR 62/Rice Valley Road Generation Tie Line Alternative) was analyzed in the FEIS/PA. A summary of the conclusions of this analysis is presented in Section 4.

Decision Criterion: Avoid sensitive resources wherever possible.

The extent to which the RSEP has been located and designed to avoid sensitive resources is addressed throughout the FEIS/PA. The BLM plans and other Federal regulations that restrict the placement of proposed facilities, such as the presence of designated Wilderness Areas or Desert Wildlife Management Areas, were considered in the original siting process used by RSE to identify potential sites for the project locations. The alternatives analysis considered whether the purpose and need of the project could be achieved with a different build alternative, but with a lesser effect on sensitive resources. The conclusions of that analysis indicated that the alternatives would likely cause generally similar impacts as the project.

Decision Criterion: Conform to local plans whenever possible.

The extent to which the RSEP conforms to local plans is addressed in the Land Use, Recreation and Wilderness section of the SA/DEIS. Conformance with local land use plans pertaining to non-Federal land in the vicinity of the site is not required; such plans do not control Federal actions on Federal land. Accordingly, this decision criterion is not applicable to the RSEP.

Decision Criterion: Consider wilderness values and be consistent with final wilderness recommendations.

Wilderness values, including those related to land use, recreation, air quality, biological resources, visual resources and others, are addressed throughout SA/DEIS Chapter 6. Overall, the assessment concludes that substantial and unmitigable impacts would remain after the proposed mitigation measures and Conditions of Certification are implemented, and thereby would result in a loss of scenic character when considering both direct and cumulative impacts as well as contribute substantially to cumulative land use and visual/scenic character impacts.

Decision Criterion: Complete the delivery systems network.

This decision criterion is not applicable to the RSEP.

Decision Criterion: Consider ongoing projects for which decisions have been made.

This decision criterion is not applicable to the RSEP.

Decision Criterion: Consider corridor networks that take into account power needs and alternative fuel resources.

Corridor networks that take into account power needs and alternative fuel resources are considered in SA/DEIS Section 7.4, *Transmission System Engineering*. Overall, the evaluation concludes that, with the implementation of Condition of Certification TSE-5, which requires a plan for the mitigation of overloads in transmission systems that could be affected by the interconnection of the RSEP, the proposed designation of a new corridor for a 161-kV transmission line to facilitate the development of solar energy on private lands would comply with industry standards, good utility practices, and applicable laws.

4. Alternatives

During the environmental analysis, the CEC licensing process developed 28 alternatives to the proposed action. These included two modifications of the project at the proposed site, the no project alternative, 12 alternative site locations, a range of solar and renewable energy technologies, generation technologies using different fuels, and conservation/demand-side management.

4.1 Alternatives Fully Analyzed

The Environmental Impact Statement fully analyzed five alternatives as follow:

1. Proposed Project
2. Alternative 1-Reduced Acreage Alternative: The heliostat field would be 10 percent smaller than the proposed project. Although the overall heliostat field distance from the central receiver tower would be closer, the number of heliostat mirrors would remain the same. The heliostat field (plus the evaporation pond and administration areas) would occupy about 1,270 acres instead of the 1,410 acres required for the proposed project.
3. Alternative 2-SR-62/Rice Valley Road Transmission Line Alternative: A portion of the gen-tie line would be realigned, eliminating the need for a new access road.
4. Alternative 3-North of Desert Center Alternative: The 150 MW solar thermal facility would be located on approximately 2,642 acres of private land, primarily composed of fallow agricultural land, with smaller sections of BLM land in the eastern portion of the site. The site and associated gen-tie line and access road would be located along Desert Center Rice Road (State Route 177) east of Kaiser Road, north of Oasis Road, and approximately 1.6 miles north of I-10.
5. Alternative 4-No Action/No Project Alternative: The solar energy facility, associated electrical transmission interconnection lines, and the associated access road would not be constructed.

4.2 Alternatives Not Fully Analyzed

As part of the joint CEC and BLM review process, of the 28 possible alternatives, 24 did not receive further analysis due to their inability to meet State and Federal renewable energy policy goals, to not reducing environmental impacts, or to infeasibility due to various physical or regulatory considerations. The review process compared the impacts of the four remaining alternatives to the impacts of the proposed RSEP location and configuration.

It was decided that the North of Desert Center Alternative was a reasonable alternative to evaluate under the California Environmental Quality Act (CEQA). Therefore, the potential impacts of that alternative were discussed throughout the SA/DEIS and the CEC's Commission Decision. The CEC concluded that impacts of this alternative with implementation of mitigation measures would have significant and unavoidable visual impacts. The number of residents adversely affected would be substantial, and viewers in the easternmost slopes of Joshua Tree National Park could be affected. This site could also result in a cumulatively significant impact to local roadway traffic levels of service.

This process also considered the SR-62/Rice Valley Road Transmission Line Alternative, which would be a variation of the proposed action by realigning a portion of the gen-tie between the solar plant site and the interconnection with Western's Parker-Blythe #2 Transmission Line. This alternative would eliminate the need for a new access road and therefore would reduce impacts to desert habitat. However, this alternative would not substantially reduce or change the

nature of impacts associated with the proposed action, may result in less efficient operations, and could pose feasibility challenges.

4.3 Environmentally Preferred Alternative

The RSEP, as proposed, and the Reduced Acreage Alternative are equally environmentally preferred. The BLM concluded that the proposed action on the Rice Army Airfield and the Reduced Acreage Alternative that would be located on the same site would have similar environmental impacts. The BLM also concluded that the No Project/No Action Alternative would not be superior to the proposed action because it would likely delay development of renewable resources or shift renewable development to other similar areas, and would lead to increased operation of existing power plants that use non-renewable technologies.

4.4 Agency Preferred Alternative and Selected Alternative

The proposed RSEP would help meet the explicit Federal policy goals of producing 10 percent of the Nation's electricity from renewable sources by 2012 and 25 percent by 2025, as well as the State policy goal to produce 33 percent of California's electricity by renewable sources by 2020.

Additional design and configuration modifications also were developed as mitigation measures to the original proposal. The BLM, Western and the CEC had identified that the stormwater detention basin was not needed considering the runoff characteristics of the project site would not be significantly altered for the developed site compared to the existing site conditions. The RSE agreed to modify its plans accordingly, which reduced the potential to attract birds to the site and thus reduced the exposure of birds to the solar field that could lead to bird injury or mortality. In addition, Western determined that fiber-optic communication cable no longer was needed on the Parker-Blythe #2 transmission line; therefore, any potential impacts to biological, cultural and other resources related to installing fiber-optic infrastructure on that line were removed. Microwave technology will be used instead.

The BLM has determined that the proposed action, with the design and configuration modifications discussed above, is its Environmentally Preferred and the Selected Alternative. This alternative, with the implementation of the mitigation measures summarized in Section 2, will address the effects on the human environment to the extent practicable.

5. Public Involvement

5.1 Scoping

Scoping activities for the RSEP were conducted by BLM and Western in compliance with the requirements of NEPA. The BLM published a Notice of Intent to develop the EIS and amend the CDCA Plan in the Federal Register on March 29, 2010 (75 FR 15427-01, pp. 15427-15429). The public scoping period began with the publication of the Notice of Intent on March 29, 2010, and concluded on April 28, 2010.

The BLM and Western hosted two public scoping meetings to provide information about the RSEP and gather comments on the proposal. The first public scoping meeting was held on March 31, 2010, at Big River Community Services District, 150351 Del Rey Street, Big River, California. The second meeting was held on April 1, 2010, at University of California Riverside-Palm Desert Campus, 75080 Frank Sinatra Drive, Palm Desert, California 92211. Each scoping meeting was scheduled from 4 p.m. to 7 p.m. and conducted informally so that attendees had opportunities to speak directly with agency, RSE and Western representatives about the project.

5.2 Draft EIS public comment period

The BLM, Western, LGP, and the CEC jointly prepared the SA/DEIS for the project incorporating information received during scoping. The agency and public review period for the SA/DEIS was initiated on October 22, 2010, by the EPA's publication of the Notice of Availability in the Federal Register (75 FR 65320-01). Interested parties identified in the EIS mailing list were notified of the publication of the SA/DEIS. The comment period concluded on January 19, 2011.

The BLM received ten comment letters on the SA/DEIS and additional oral comments. All public comments received were carefully analyzed and agency responses were included in the FEIS/PA.

5.3 Protests

The FEIS/PA contained a proposed plan amendment, which may be protested within 30-days of publication of the FEIS/PA. The FEIS/PA was issued on June 10, 2011, through the EPA's publication of the Notice of Availability in the Federal Register (76 FR 34072-02). However, the notice did not contain BLM protest information. The BLM published a supplemental Federal Register notice on August 5, 2011, and the protest period was extended through September 6, 2011. During that period, any person who participated in the planning process and believed they would be adversely affected by the CDCA Plan amendment had the opportunity to protest the proposed amendment to the Director of the BLM.

One protest was received which raised the following issues, among others: range of alternatives, impact analysis, conformance with the CDCA Plan, consistency with county plans, cultural resources, and tribal interests.

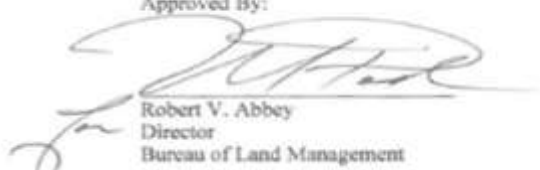
The Director signed a response letter to the protesting party conveying the Director's decision on the concerns raised in the protest. The responses concluded that BLM followed the applicable laws, regulations, and policies, and considered all relevant resource information and public input in developing the CDCA Plan Amendment/FEIS. Therefore, the protest was dismissed, and no changes were made to the proposed CDCA Plan Amendment decision as a result of the protests. Detailed information on protests may be found on the BLM Washington Office Website at: http://www.blm.gov/wo/st/en/prog/planning/protest_resolution.html, along with [Appendix 4, Director's Protest Resolution Report – Rice Solar Energy Project Plan Amendment, California Conservation Area Plan](#).

6. Final Agency Action

6.1 Land Use Plan Amendment

It is the decision of the Bureau of Land Management (BLM) to approve the Proposed Plan Amendment to the California Desert Conservation Area Land Use Management Plan of 1980, as amended (CDCA Plan), to designate a new corridor for a 161/230-kV transmission line, which would facilitate the development of solar energy on private lands in the vicinity of BLM-administered lands in eastern Riverside, California. The Proposed Plan Amendment and related Environmental Impact Statement (EIS) were published on June 11, 2011, in the Federal Register (76 FR 34072-02). I have resolved the one protest and, in accordance with BLM regulations, 43 CFR part 1610.5-2, my decision on the protest is the final decision of the Department of the Interior.

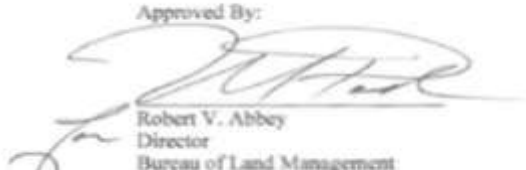
Based on the recommendation of the State Director, California, I hereby approve the above-described plan amendment. This approval is effective on the date this Record of Decision is signed.

Approved By:

Robert V. Abbey
Director
Bureau of Land Management

12/8/2011
Date

6.2 Right-of-Way Authorizations

It is my decision to approve, subject to the terms, conditions, stipulations, Plan of Development, and environmental protection measures developed by the Department of the Interior and reflected in this Record of Decision: 1) a new ROW grant to Rice Solar Energy, LLC, for a 161/230kV gen-tie and access road; and 2) a new ROW grant to Western for a substation. These decisions are effective on the date this Record of Decision is signed.

Approved By:

Robert V. Abbey
Director
Bureau of Land Management

12/8/2011
Date

6.3 Secretarial Approval

I hereby approve these decisions. My approval of these decisions constitutes the final decision of the Department of the Interior and, in accordance with the regulations at 43 CFR 4.410(a)(3), is not subject to appeal under Departmental regulations at 43 CFR Part 4. Any challenge to these decisions, including the BLM Authorized Officer's issuance of the right-of-way as approved by this decision, must be brought in the Federal district court.

Approved by:

Ken Salazar

DEC 08 2011

Ken Salazar

Date

Appendices

1. Location Map
2. Biological Opinion
3. Memorandum of Agreement
4. Director's Protest Resolution Report
5. Adopted Mitigation Measures